IN THE UNITED STATES CIRCUIT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

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| ROBERT KIM,<br><br>Plaintiff,<br><br>v.<br><br>CITY OF BRIDGETON, MISSOURI, *et al.*,<br><br>Defendants. | )<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>) | Case Number: 4:14-cv-00291-AGF |

**JOINT STIPULATED PROTECTIVE ORDER**

**1. Introduction**

The Court, based on the parties' stipulation and finding that a limited protective order is proper and desirable in the circumstances of this case, and good cause appearing therefore, makes the following Order for the benefit of all parties and witnesses to govern the course of the proceedings in this case:

**2. Definitions**

The following definitions shall apply to this Protective Order:

A. "Confidential Information" shall mean any information, documents, and/or data that is considered in good faith by the designating party to constitute confidential information including, *inter alia*, medical records, tax returns, and/or personnel records. The designation made by a party shall be a certification to the Court and to the other parties that such information is believed to be confidential within the meaning of this Order.

B. "Qualified Persons" entitled to view or receive Confidential Information shall be limited to:

i. Attorneys of record and their office associates, legal assistants, and stenographic and clerical employees;

ii. Any party to this litigation;

iii. Any author or prior recipient of such Confidential Information;

iv. Outside independent persons (*i.e.*, persons not currently or formerly employed by, consulting with, or otherwise associated with any party) who are used by a party or its attorneys to furnish technical or expert services, or to provide assistance as mock jurors or focus group members or the like, and/or to give testimony in this action and who have complied with paragraph (3) below, and the employees of such experts or consultants who are assisting them;

v. The United States District Court for the Eastern District of Missouri – Eastern Division, and its personnel, and any other court of competent jurisdiction having involvement in this matter and its personnel.

vi. Court reporters conducting depositions in this matter and deponents during depositions in this matter.

**3.** Prior to receiving information designated as Confidential Information, all Qualified Persons, except for counsel of record, Court personnel previously identified, the parties, and court reporters at any deposition in this action, shall be provided with a copy of this Order and shall sign a Written Assurance statement in substantially the following form:

"I [name], [position of employment], hereby acknowledge that any information provided to me is subject to the terms and conditions of the Protective Order in CASE NO. 4:14-CV-00291-AGF, pending in the United States District Court for the Eastern District of Missouri. Having been given a copy of this Protective Order, and having read and understood its contents, I hereby expressly agree to be bound by the terms and provisions thereof."

**4.** Whenever during the course of discovery in this matter a party or witness is properly requested to disclose, or voluntarily discloses, materials or information that a party considers to be protected by this Protective Order, that party shall clearly indicate at or before the time of disclosure that the information or materials are Confidential Information by putting a prominent "Confidential Information" designation thereon, or by clearly indicating, in writing or on the record, in some other appropriate fashion that the information or materials produced are subject to this Protective Order.

**5.** Materials or information designated as Confidential Information shall not be used by the parties, their respective agents, or any other persons to whom such Confidential Information may be disclosed pursuant to this Protective Order, except for use in (a) in this Action; (b) as otherwise compelled by lawful process (provided the other party is given a reasonable notice to object); or (c) as otherwise required by law. However, nothing contained herein shall prevent any party from disclosing its own information as it deems appropriate.

**6.** Materials or information designated as Confidential under this Order shall not be disclosed or made available to persons other than Qualified Persons as defined above or the party who produced the information. However, nothing contained herein shall prevent any party from disclosing its own information as it deems appropriate.

**7.** Depositions

a. Counsel may during the course of a deposition upon oral examination designate certain portions of the deposition testimony as Confidential Information. The court reporter shall be instructed to include on the cover page of the deposition transcript the legend, "This transcript contains information subject to a Protective Order and shall be used only in accordance therewith."

b. All information disclosed or revealed in a deposition proceeding which has previously been designated as Confidential Information shall remain as such when included in a deposition transcript.

c. In the event counsel attending a deposition inadvertently fails to designate deposition testimony as Confidential, he or she shall have thirty (30) days following mailing of the transcript by the court reporter in which correct the designation of the deposition testimony by written notice to the court reporter with copies to all other parties. The court reporter shall thereafter correct the transcript at the expense of the requesting party and send, at the expense of the requesting party, corrected copies of the deposition transcript to the Parties. All parties shall upon receipt of corrected transcripts, return all original copies of the transcript to the designating party after receipt from the designating party of their costs to return said transcripts.

**8. Filing Confidential Information with the Court and Use in Court**

If a party intends to file a document containing confidential information with the Court, this Protective Order grants leave to make such filing under seal in compliance with Local Rule 13.05(A) and/or the Electronic Case Filing/Case Management procedures manual. This Order does not restrict the use of Confidential Information at any trial or hearing in this case. However, prior to disclosure, at trial or a hearing, of materials or information designated "Confidential," the parties may seek further protections against public disclosure from the Court or the Court may, on its own, enter an appropriate order regarding the protection of such information.

**9.** At the conclusion of this litigation (including any appeals), the parties' respective counsel shall, within six (6) months, and upon written request by the other party, return all documents which fall under the scope of this Order, including all copies, to the person who produced said documents. If respective counsel fails to make a written request for the return of documents within six (6) months of the conclusion of this litigation, their right to do so is waived, and other counsel may destroy such records at their option. The parties, however, retain the right to keep any documents that were admitted as exhibits in this case.

**10.** By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

**11.** Any party may apply to the Court for a modification of the Protective Order, and nothing in the Protective Order shall be construed to prevent a party from seeking such further Provisions enhancing or limiting confidentiality as may be appropriate.

**12.** No action taken in accordance with the Protective Order shall be construed as a waiver of any claim or defense in the action or of any position as to discoverability or admissibility of evidence.

**13.** If any party, in good faith, disputes that information produced should be deemed Confidential Information, that party may present the matter to the Court and the Court shall determine whether such information should be protected by this Order.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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**ATTORNEYS FOR DEFENDANTS**

**SO ORDERED:**

Audrey G. Fleissig
The Honorable Audrey G. Fleissig
UNITED STATES DISTRICT JUDGE

Dated this 25th day of July, 2014.